

CHAPTER 133

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 12-1236

BY REPRESENTATIVE(S) Summers, Holbert, Fields, Kerr A., Labuda, Young;
also SENATOR(S) Jahn, Boyd, Newell.

AN ACT

**CONCERNING THE REGULATION OF CHARITABLE SOLICITATIONS, AND, IN CONNECTION THEREWITH,
MAKING AN APPROPRIATION.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 6-16-103, **amend** (7) (e) and (7) (f); and **add** (7) (g) as follows:

6-16-103. Definitions. As used in this article, unless the context otherwise requires:

(7) "Paid solicitor" means a person who, for monetary compensation, performs any service in which contributions will be solicited in this state by such compensated person or by any compensated person he or she employs, procures, or engages, directly or indirectly, to solicit for contributions. The following persons are not "paid solicitors":

(e) Any employee of the department of revenue collecting voluntary contributions for organ and tissue donations under ~~the provisions of~~ sections 42-2-107 (4) (b) (V) and 42-2-118 (1) (a) (II), C.R.S.; ~~or~~

(f) A person whose only responsibility in connection with a charitable contribution is to provide a merchant account to process credit card payments using the internet; OR

(g) A PERSON WHO PREPARES A GRANT APPLICATION FOR A CHARITABLE ORGANIZATION OR PURPOSE, UNLESS THE PERSON'S COMPENSATION IS COMPUTED ON THE BASIS OF FUNDS TO BE RAISED OR ACTUALLY RAISED AS A RESULT OF THE GRANT APPLICATION.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. In Colorado Revised Statutes, 6-16-104, **amend** (2) introductory portion, (2) (f), (5), (6) introductory portion, and (6) (b); and **add** (6) (d) as follows:

6-16-104. Charitable organizations - initial registration - annual filing - fees.

(2) The registration statement ~~shall~~ **MUST** be signed and sworn to under oath by an officer of the charitable organization, which may include its chief fiscal officer, and ~~shall~~ **MUST** contain the following information:

(f) A financial report for the most recent fiscal year, upon a form prescribed by the secretary of state, or, in the discretion of the secretary of state, a copy of the charitable organization's federal form 990, with all schedules except schedules of donors, for the most recent fiscal year. If, at the time of the initial registration, the charitable organization does not have the required financial report or form 990 for the most recent fiscal year, the charitable organization shall submit a financial report or form 990 for the most recent fiscal year in which such information is available. An organization that was first legally established within the past year and thus does not have financial information or a form 990 for its most recent fiscal year shall provide to the secretary of state a financial report based on good faith estimates for its current fiscal year on a form prescribed by the secretary of state. Any organization that files a good faith estimate for its first fiscal year shall amend its initial registration statement to report actual financial information ~~no later than~~ **ON OR BEFORE THE EARLIER OF** the fifteenth day of the ~~fifth~~ **EIGHTH** month after the close of the organization's first fiscal year **OR THE DATE AUTHORIZED FOR FILING A FORM 990 WITH THE INTERNAL REVENUE SERVICE.**

(5) Every charitable organization required to register under this section shall annually file with the secretary of state a financial report for the most recent fiscal year on a form prescribed by the secretary of state, or, in the discretion of the secretary of state, a copy of the charitable organization's federal form 990, with all schedules except schedules of donors, for the most recent fiscal year. ~~Such~~ **THE** financial report ~~shall~~ **MUST** be filed on or before the **EARLIER OF THE** fifteenth day of the ~~fifth~~ **EIGHTH** calendar month after the close of each fiscal year in which the charitable organization solicited in this state **OR THE DATE AUTHORIZED FOR FILING A FORM 990 WITH THE INTERNAL REVENUE SERVICE.** A charitable organization that is unable to file a copy of its form 990 return or the secretary of state's financial form by the prescribed deadline may request an extension of the filing deadline from the secretary of state. ~~All such requests shall be made and granted under terms, conditions, and procedures that are substantially similar to the terms, conditions, and procedures applicable to obtaining an extension of time to file a form 990 return from the internal revenue service. A charitable organization shall provide the secretary of state with its most recently completed form 990 return, or such financial information as the secretary of state may require, in a form prescribed by the secretary of state, during the extension period. An organization that was first legally established within the past year and thus does not have financial information or a form 990 for its most recent fiscal year shall provide to the secretary of state a financial report based on good faith estimates for its current fiscal year on a form prescribed by the secretary of state~~ **THE SECRETARY OF STATE, UPON RECEIPT OF AN APPLICATION TO EXTEND THE FILING DEADLINE, MAY GRANT A THREE-MONTH EXTENSION OF TIME TO FILE THE FINANCIAL REPORT. ALL SUCH REQUESTS MUST BE IN A FORM PRESCRIBED BY THE SECRETARY OF STATE AND MUST INCLUDE A**

STATEMENT DESCRIBING IN DETAIL THE REASONS CAUSING THE DELAY IN FILING THE FINANCIAL REPORT AND AN AFFIRMATION THAT THE CHARITABLE ORGANIZATION HAS FILED WITH THE INTERNAL REVENUE SERVICE AN APPLICATION FOR A CORRESPONDING EXTENSION OF TIME TO FILE THE ORGANIZATION'S FORM 990. UPON REQUEST, THE CHARITABLE ORGANIZATION SHALL PROVIDE THE SECRETARY OF STATE WITH A COPY OF ITS APPLICATION FOR EXTENSION OF TIME TO FILE WITH THE INTERNAL REVENUE SERVICE IN ORDER TO VERIFY THE DATE AUTHORIZED FOR FILING ITS FORM 990 WITH THE INTERNAL REVENUE SERVICE.

(6) The following ~~shall~~ ARE not ~~be~~ required to file a registration statement:

(b) Political parties, candidates for federal or state office, and political action committees required to file financial information with federal or state elections commissions; ~~and~~

(d) PERSONS EXCLUSIVELY MAKING APPEALS FOR FUNDS ON BEHALF OF A SPECIFIC INDIVIDUAL NAMED IN THE SOLICITATION, BUT ONLY IF ALL OF THE PROCEEDS OF THE SOLICITATION ARE GIVEN TO OR EXPENDED FOR THE DIRECT BENEFIT OF THE SPECIFIED INDIVIDUAL.

SECTION 3. In Colorado Revised Statutes, 6-16-104.6, **amend** (8) as follows:

6-16-104.6. Paid solicitors - annual registration - filing of contracts - fees.

(8) If a paid solicitor will have custody of any MONETARY contribution received during a solicitation campaign, each such contribution ~~shall~~ MUST be deposited within two business days after its receipt in an account at a bank or other federally insured financial institution. The account ~~shall~~ MUST be in the name of the charitable organization with whom the paid solicitor has contracted, and the charitable organization ~~shall~~ MUST have sole control over all withdrawals from the account.

SECTION 4. In Colorado Revised Statutes, 6-16-105.3, **amend** (1) introductory portion and (1) (e); and **add** (1) (d.5) as follows:

6-16-105.3. Solicitations by telephone. (1) In addition to any other disclosure required for solicitations by telephone under section 6-16-105, a paid solicitor ~~as defined in section 6-16-103 (7)~~ who makes an oral solicitation to any person by a telephone call received in Colorado regarding a charitable contribution shall make the following oral disclosures as part of the telephone solicitation:

(d.5) THE FIRST NAME AND SURNAME OF THE PAID SOLICITOR, WHICH MUST BE GIVEN IN THE OPENING GREETING;

(e) A statement, WHICH MUST BE MADE PRIOR TO THE PERSON'S AGREEMENT TO MAKE A CONTRIBUTION, that the charitable contribution is not tax deductible, if such is the case;

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund created in section 24-21-104 (3) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2012, the sum of \$41,440, or so much thereof as may be necessary, for allocation to information

technology services related to the implementation of this act.

SECTION 6. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 2013; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on January 1, 2013, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

(2) The provisions of this act apply to actions occurring on or after the applicable effective date of this act.

Approved: April 26, 2012